

REMARKS

Applicants thank the Examiner for the thorough consideration given the present application. Claims 26-47 are currently being prosecuted. Claim 26 and 37 have been amended by the present amendment. The Examiner is respectfully requested to reconsider her rejections in view of the Amendments and Remarks as set forth hereinbelow.

REJECTION UNDER 35 U.S.C. § 112, 2<sup>ND</sup> PARAGRAPH

Claim 26 stands rejected under 35 U.S.C. § 112, 2<sup>nd</sup> Paragraph. This rejection is respectfully traversed.

The Examiner has set forth certain instances wherein the claim language lacks antecedent basis. In order to overcome this rejection, Applicants have amended claim 26 to correct each of the deficiencies specifically pointed out by the Examiner. Applicants respectfully submit that the claims, as amended, particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

REJECTIONS UNDER 35 U.S.C. §§ 102 & 103

Claims 26-29, 32-40 and 43-47 stand rejected under 35 U.S.C. § 102 as anticipated by Oshio et al. Claims 30, 31, 41 and 42 stand rejected under 35 U.S.C. § 103 as unpatentable over Oshio et al. in view of Conner. These rejections are respectfully traversed.

Independent claim 26 includes a combination of elements and has been amended to further recite that the frame contacts the subject only on a nose of the subject and is located only

in front of a plane defined by the eyes of the subject when the frame is mounted onto the subject such that a head of the subject is not immobilized. Independent claim 37 includes similar features in a varying scope.

These features are supported at least by a non-limiting example in Fig. 4. For example, the frame 3 contacts the subject only on a nose of the subject and is located only in front of a plane defined by the eyes of the subject when the frame 3 is mounted onto the subject such that a head of the subject is not immobilized (see Fig. 4 of the present application).

On the contrary, as shown in Fig. 1 of Oshio et al., the frame 10 is curved such that the frame 10 wraps around the subject's face. In other words, the frame 10 in Oshio et al. is not located only in front of a plane defined by the eyes of the subject, but is also located behind the plane defined by the eyes of the subject. Further, Oshio et al. discusses a frame having fittings for placement about the periphery of the subject (see paragraph [0058] of Oshio et al.). Further, Conner fails to overcome the deficiencies of Oshio et al. because Conner only teaches an eyeglass frame, and the frame in Conner also extends behind the plane defined by eyes of the subject. Therefore, Oshio et al., even when combined with Conner, does not teach or suggest that the frame contacts the subject only on a nose of the subject and is located only in front of a plane defined by the eyes of the subject when the frame is mounted onto the subject such that a head of the subject is not immobilized, as recited in amended independent claims 26 and 37.

Accordingly, it is respectfully submitted that independent claims 26 and 37 and each of the claims depending therefrom are allowable.

**CONCLUSION**

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone David A. Bilodeau at (703) 205-8072 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-1448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly extension of time fees.

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Respectfully submitted,

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